

Court of Appeals, State of Michigan

ORDER

In re Cates/Neuman Minors

Docket No. 255775

LC No. 2003-681534-NA

Jessica R. Cooper
Presiding Judge

Karen Fort Hood

Roman S. Gibbs*
Judges

On the Court's own motion, the opinion that was issued in this case on June 30, 2005, is CORRECTED in the following regard:

Docket No. 255755 is corrected to read Docket No. 255775.

*Former Court of Appeals judge, sitting on the Court of Appeals by assignment.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUL 15 2005

Date

Sandra Schultz Mengel
Chief Clerk

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALYSSA ALLEY NICOLE
CATES and ALEXANDRIA DESERIA-ROSE
NEUMAN, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JEREMY CATES,

Respondent-Appellant.

UNPUBLISHED

June 30, 2005

No. 255755

Oakland Circuit Court

Family Division

LC No. 2003-681534-NA

Before: Cooper, P.J., and Fort Hood and R. S. Gribbs*, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor child Alyssa Cates under MCL 712A.19b(3)(b)(i), (b)(iii), (g), (j), and (k)(i). We affirm.

The trial court did not clearly err in finding that statutory ground for termination was established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 377; 445 NW2d 161 (1989). The principal condition that led to the adjudication was respondent's longstanding and severe substance abuse problem, which led to an incident of sexual touching of the minor child's half-sister. The evidence established that respondent, who was only twenty-three, had abused alcohol and drugs for almost ten years. He had gone through three treatment programs, completed two, but was still using drugs up to three months before the best interests hearing. He also had a criminal background, having convictions for receiving and concealing stolen property, possession of marijuana, and retail fraud. In January 2001 respondent, while high on crack cocaine and heroin, touched the minor child's eight-year-old half-sister in her genital area. Respondent testified that he thought it was his girlfriend, the girls' mother, next to him in bed. Although this incident was by all accounts unintentional and induced by a drug stupor, respondent did nothing about the incident and did not admit the incident to the girl's mother until approximately a year and a half after it occurred, when the sister brought it up. Respondent pleaded guilty to second-degree criminal sexual conduct. There was also testimony

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that respondent would leave the home for three days at a time on occasion to go on drug binges and that there were physical altercations between respondent and the minor child's mother, necessitating the police being called once. Rodney Yager, an expert psychologist, testified that respondent has an antisocial personality, has minimal parenting skills, and that his prognosis for recovery and for being a good parent is poor.

Further, the evidence failed to show that termination of respondent's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Although respondent testified that he loved the minor child and wanted to have a relationship with her, Dr. Yager testified that the minor child would be at risk of abuse and neglect if returned to respondent. Additionally, respondent's expert psychologist, Diane Buffalin, testified to the negative impact that not having a father has on children. Her testimony was general in nature and not based on an evaluation of the minor child or any observation of interaction between respondent and the minor child. Further, it was brought out at the hearings that respondent was about to be sentenced to three to twenty-two years' imprisonment for his second-degree criminal sexual conduct conviction. Based on all of the testimony, the trial court did not err in terminating respondent's parental rights to the minor child.

Affirmed.

/s/ Jessica R. Cooper
/s/ Karen M. Fort Hood
/s/ Roman S. Gribbs